



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
January 28, 2003

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Mike Connelly, Chair
Susan Brady, Vice Chair
Lois Clement, Secretary
Francis Martin, Member
Earl Tilly, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Mike Connelly at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

Commissioner Connelly welcomed new Commission member Earl Tilly who resides in the Wenatchee area.

Commissioner Tilly was a legislator for 13 years and served as the Mayor of Wenatchee for one term.

Commissioner Connelly also commented that January 2003 marks the 30th anniversary of the Public Disclosure Commission.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 03-068

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission adopts the minutes of the special meeting of December 4, 2002, as written.

The motion passed unanimously.

Legislative Matters

Vicki Rippie updated the Commission on the status of agency request bills designed to exempt federal committees from filing the C-5 report when they make contributions to state or local candidates or committees and to remove the forfeiture language of current law, relying on the regular penalty provision of the statute.

Ms. Rippie summarized other pending legislation that may impact chapter 42.17 RCW.

Advisory Matters

7-day Pre General C-4 Penalty
Schedule

Susan Harris summarized a proposed 7-day pre-general election C-4 penalty schedule to be used by the Presiding Officer during brief enforcement hearings.

The Commission accepted the contents of the penalty schedule, however they requested that examples be added for clarification.

Mandatory Electronic Filing
Protocol

Ms. Harris also briefly summarized a protocol and electronic filing penalty schedule for candidates and political committees required to file campaign reports electronically.

The Commission requested that the protocol include a statement that there would be no extensions granted after July 31.

Motion 03-069

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission adopts the protocol for mandatory electronic filing as amended.

The motion passed unanimously.

Ms. Harris also requested that the previously approved penalty schedules for L2, L3, F1 and C1 non-filers, which were approved on a six month trial basis, be extended for an additional six months so each of them can be utilized in an enforcement setting during the trial phase. At the end of the six months, formal rulemaking will begin.

Motion 03-070

Moved by Commissioner Brady, seconded by Commissioner Martin:

The Commission extends the trial period for previously approved penalty schedules for L2, L3, F1 and C1 non-filers until June 30, 2003.

The motion passed unanimously.

Kimura Protocols

Assistant Attorney General Nancy Krier briefed the Commission on the background of modification protocols for F1 reports and summarized possible revisions to the current Kimura Protocols. She also suggested adopting the protocols as formal interpretations.

Mr. Stutzman noted that staff has received positive responses from several parties potentially affected by the protocols.

Motion 03-071

Moved by Commissioner Brady, seconded by Commissioner Tilly:

The Commission accepts the protocols and adopts Interpretation 02-03 Requests for Modification of the

Requirement to Report Information on the Personal Financial Affairs Statement (F-1) For Lawyers and Law Firms, Interpretation 02-04 Requests for Modification of the Requirements to Report Information of Personal Financial Affairs Statement (F-1) For Judges and Judicial Candidates, Interpretation 02-05 Requests for Modification of the Requirements to Report Information of Personal Financial Affairs Statement (F-1) For Motor Vehicle Dealers and Interpretation 02-06 Requests for Modification of the Requirements to Report Information of Personal Financial Affairs Statement (F-1) For Applicants Whose Spouses Create a Reporting Obligation for the Applicant.

The motion passed unanimously.

Rule-Making

*WAC 390-17-100 Contribution
withholding authorizations*

Doug Ellis briefly summarized continuing activity regarding amendments to WAC 390-17-100 to allow the use of exact language in RCW 42.17.680(2) or alternative language describing the provisions of statute.

Staff is requesting the Commission allow additional time to present revised language at a future Commission meeting.

There were no public comments.

Motion 03-072

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission approves the minor change and postpones formal action until the March meeting.

The motion passed unanimously.

*WAC 390-17-110 Notifying
employees regarding voluntary
payroll deductions*

Doug Ellis briefly summarized continuing activity regarding a proposed new rule which addresses two types of notices to employees that are required under RCW 42.17.680:

- A nondiscrimination notice (RCW 42.17.680(2)), and,
- A revocation notice (RCW 42.17.680(3)).

The rule also clarifies who sends the notifications to employees, examples of what constitutes written notification, and retention of records.

Mr. Ellis reported that Legislative history and a recent State Supreme Court case were considered in drafting the new rule and amendments.

Owen Linch, legislative director for the Joint Council of Teamsters, and Adair Dammann, Executive Director of SEIU, spoke in opposition to the proposed new rule. Ms. Dammann added that communicating with union contributors is not the responsibility of the employer, but of the union.

Attorney, Jim Oswald, representing the Washington State Labor Council, stated that the obligation to provide annual notice on non-discrimination should fall on the same entity that provided the initial authorization card.

Mike Ryherd, lobbyist for the teamsters, stated that he was involved in the debate at the legislature in passing the bill and he stated that it was his understanding that legislative intent in the House was that it was the responsibility of the union to get the notice out.

Harriet Strasberg, attorney for the Washington Education Association, provided written comments expressing concern about the potential impact of the proposed rule on the privacy interests of those

who contribute less than \$25 annually to a political committee via payroll deduction.

Staff is requesting that the Commission allow additional time to present revised language at a future Commission meeting.

Motion 03-073

Moved by Commissioner Brady, seconded by Commissioner Tilly:

The Commission postpones formal action until the March meeting.

Voting For: Commissioners Brady, Tilly and Connelly.

Voting Against: Commissioners Clement and Martin.

The motion passed.

Enforcement Matters
Hearings

Protect our Pets and Wildlife,
Case #02-263

Assistant Attorney General Nancy Krier briefly summarized the case against Protect our Pets and Wildlife for alleged violations of RCW 42.17.080 and 42.17.090 by failing to timely report orders placed and estimated expenditures during its 2000 campaign supporting Initiative 713. The case was heard at the January 22, 2002 meeting and the Commission referred it to the Office of the Attorney General at the February 26, 2002 meeting. The case has been returned to the Public Disclosure Commission for penalty consideration.

Motion 03-074

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission finds multiple violations in PDC Case #01-134, Protect our Pets and Wildlife, and assesses a penalty of \$2,500.

The motion passed unanimously.

Vicki Rippie was authorized to sign the order on behalf of the Commission.

*Whatcom County Republican
Party, Case #03-019*

Phil Stutzman summarized the case against the Whatcom County Republican Party for alleged violation of RCW 42.17.065, 42.17.080 and 42.17.090 by failing to timely file reports of contributions and expenditures, and by failing to timely report dates of expenditures.

Mr. Stutzman then read the Stipulation of Facts, Violations and Penalty into the record.

Current chair, Bruce Ayers, and former chair, George Manchester, were present and apologized for the mistakes. Mr. Ayers also stated that the errors were found by the party and brought to the attention of the PDC staff. He added that all reports were brought up to date as soon as possible.

Motion 03-075

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission accepts the Stipulation of Facts, Violations and Penalty of \$5,000 with \$2,500 suspended based on the conditions specified in the stipulation in PDC Case #03-019, Whatcom County Republican Party.

The motion passed unanimously.

John Potter, Case #03-128

Mr. Stutzman reported that Mr. Potter was found in violation of RCW 42.17.080 by failing to timely file the report of contributions and expenditures (PDC form C-4) that was due 7 days before the 2002 primary election and was assessed a penalty of \$500.

Staff is requesting that the Commission vacate the order with a warning in accordance with the penalty schedule since Mr. Potter was under the \$3,500 threshold and qualified for mini reporting.

Mr. Stutzman also reported that PDC case #03-128 was scheduled for a brief enforcement hearing on December 12, 2002 where the Presiding Officer asked that the case be heard by the full Commission due to Mr. Potter's past history and previous unpaid penalties. However, because Mr. Potter qualified for mini reporting, he would not be required to complete the 7-day pre general C4 form. Staff is requesting that the Commission dismiss this case.

Mr. Potter was present via telephone and apologized for staff time and effort expended on his behalf.

Motion 03-076

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission vacates PDC Case #03-052, John Potter and dismisses PDC Case #03-128, John Potter.

Voting for: Commissioners Connelly, Clement, Martin and Tilly.

Abstaining: Commissioner Brady.

The motion passed.

Executive Session

The Commission went into executive session at 12:00 p.m. to discuss potential and pending litigation with legal counsel.

Public Session

The Commission returned to public session at 12:45 p.m., but resumed the meeting at 1:00 p.m.

Enforcement Matters (cont.)

Requests for Review

Commissioner Brady noted that Commissioner Connelly would be absent for the afternoon session and she would be Presiding Officer for the remainder of the meeting.

Allan Brotche, Case #03-093

Mr. Stutzman reported that a brief enforcement hearing was held on December 11, 2002, in which Mr. Brotche was found in violation of RCW 42.17.080 and 42.17.090 for failure to timely file the C-4 contribution and expenditure report due seven days before the general election, by October 29, 2002. Staff supports vacating the order due to an apparent misunderstanding and because no money was spent during the campaign, aside from the filing fee.

Mr. Brotche was present to answer questions from the Commission.

Motion 03-077

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission vacates the order in PDC Case #03-093, Allan Brotche.

The motion passed unanimously.

Dan Bardsley, Case #03-088

Mr. Stutzman reported that a brief enforcement hearing was held on December 11, 2002, in which Mr. Bardsley was found in violation of RCW 42.17.080 and 42.17.090 for failure to timely file the C-4 contribution and expenditure report due seven days before the general election, by October 29, 2002. Mr. Bardsley was assessed a penalty of \$100 and the report was filed November 5, 2002.

Mr. Bardsley's treasurer, Penny Paulsen, submitted a letter stating that the due dates were not clear on the schedule and the reporting date was unintentionally overlooked.

There was no motion to review this matter.

Wayne Weber, Case #03-141

Mr. Stutzman reported that a brief enforcement hearing was held on December 11, 2002, in which Mr. Weber was found in violation of RCW 42.17.080 and 42.17.090 for failure to timely file the C-4 contribution and expenditure report due seven days before the general election, by October 29, 2002. Mr. Weber was assessed a penalty of \$150 and the report was filed on November 11, 2002.

Mr. Weber provided a letter stating that his secretary treasurer had a medical emergency during the reporting period resulting in the late filing.

There was no motion to review this matter.

Request for Reconsideration

Eric Patton, Case #02-524

Mr. Stutzman reported that a brief enforcement hearing was held June 4, 2002, in which Mr. Patton was found in violation of RCW 42.17.240 for failure to timely file a Statement of Financial Affairs. Mr. Patton was assessed a penalty of \$100 and the form was filed on May 24, 2002.

Mr. Patton was present via telephone and stated that he had originally mailed the form on March 7, 2002. He was out of town until the day after the deadline of May 21, 2002 and he mailed a copy of his original form mailed in March immediately upon his return.

Motion 03-078

Moved by Commissioner Clement, seconded by Commissioner Tilly:

**The Commission will reconsider
PDC Case #02-524, Eric Patton.**

The motion passed unanimously.

Motion 03-079

Moved by Commissioner Clement, seconded by Commissioner Tilly:

**The Commission vacates the order
in PDC Case #02-524, Eric Patton.**

Voting For: Commissioners Clement, Tilly
and Martin.

Voting Against: Commissioner Brady.

The motion passed.

Personal Financial Affairs Reporting

New Modification Requests

*Christine Cary, Judge, Spokane
County District Court*

Mr. Stutzman reported that Christine Cary requests an exemption from reporting the business clients of McCormick, Dunn & Black, P.S., of which her spouse is a partner.

Mr. Stutzman noted that Mr. McCormick is no longer with the law firm of McCormick, Dunn & Black and he does not have access to the firm's records. In addition, Christine Cary no longer holds elective office in Washington State.

Staff supports granting a modification for the F-1 report filed April 15, 2002 and for her final F-1 report due April 15, 2003.

Motion 03-080

Moved by Commissioner Tilly, seconded by
Commissioner Clement:

**The Commission grants the reporting
modification to Christine Cary as
requested.**

**The Commission finds that literal
application would cause a manifestly
unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

The motion passed unanimously.

*Patricia Connolly Walker, Candidate
Spokane County District Court
Judge*

Mr. Stutzman reported that Patricia Connolly Walker requests an exemption from reporting the business customers of the law firm of Delay, Curran, Thompson, Pontarolo & Walker, P.S. of which her spouse is a partner.

Motion 03-081

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission grants Patricia Connolly Walker a reporting modification consistent with PDC Interpretation 02-06 Requests for Modification of the Requirements to Report Information of Personal Financial Affairs Statement (F-1) For Applicants Whose Spouses Create a Reporting Obligation for the Applicant.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Philip Sharpe, Trustee, Western
Washington University*

Mr. Stutzman reported that Mr. Sharpe requests an exemption from reporting the business customers of the law firm of Adelstein, Sharpe & Serka LLP, of which he is a partner.

Motion 03-082

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission grants Philip Sharpe a reporting modification consistent with PDC Interpretation 02-03 Requests for Modification of the Requirement to Report Information on the Personal Financial Affairs

Statement (F-1) For Lawyers and Law Firms.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Renewal (no change)
WA State Republican Party

Mr. Stutzman reported that the Washington State Republican Party requests a modification of the requirements for reporting details of bulk transfers made to its federal committee for payment of the state party's share of joint overhead and administrative expenses.

Motion 03-083

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission grants the reporting modification to the WA State Republican Party as requested contingent upon receiving a certification.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

WA State Democratic Central Committee

Mr. Stutzman reported that the Washington State Democratic Central Committee requests a modification of the requirements for reporting details of bulk transfers made to its federal committee for payment of the state party's share of joint overhead and administrative expenses.

Motion 03-084

Moved by Commissioner Clement, seconded by Commissioner Martin:

The Commission grants the reporting modification to the WA State Democratic Central Committee as requested.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Gordon Budke, Trustee,
Eastern WA University*

Mr. Stutzman reported that Mr. Budke requests an exemption from reporting business and governmental customers of Yoke's Washington Foods, Inc., and the business customers of Biomedex, Inc.

Motion 03-085

Moved by Commissioner Martin, seconded by Commissioner Clement:

The Commission grants the requested reporting modification to Gordon Budke.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Personal Financial Affairs Reporting

Professional Staff

Susan Harris stated that the Public Disclosure Law requires professional staff of the House, Senate and Office of the Governor to file an annual Financial Affairs Statement. The Commission is required to conduct a review of these professional staff positions each year. The House, Senate and Governor's office have submitted a list of persons

and positions they believe meet the requirements of professional staff.

Motion 03-086

Moved by Commissioner Tilly, seconded by Commissioner Martin:

The Commission approves the lists of professional staff required to file Financial Affairs Statements with the Public Disclosure Commission as proposed by the Governor's Office, House of Representatives, and State Senate.

The motion passed unanimously.

Staff Reports

Executive Director

Vicki Rippie briefly reported the FY 03 budget status and summarized a briefing to the House State Government Committee by herself, Susan Harris and Michael Smith.

Assistant Director

Susan Harris reported that the 2003 Lobbyist Picture Book is at the printer and will be available to the public in mid February. She also noted that the 2002 Fact Book is expected to be available in late Spring.

Chief Technology Officer

Michael Smith updated the Commission on the ORCA project noting that 221 responses have been received from a survey regarding the WEDS replacement project. He also requested Commission approval of IT acquisitions using the agency's savings incentive account.

Motion 03-087

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission approves up to \$30,000 of the agency savings incentive account for IT purchases.

The motion passed unanimously.

Adjournment

Commissioner Brady adjourned the meeting at 2:20 p.m. The next meeting is scheduled for Tuesday, February 25, 2003.

Approved by the Commission 3/25/03